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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/818,882	03/27/2001	Harry A. Reimer	S01.010	2429
22927	7590	06/30/2005	EXAMINER	
WALKER DIGITAL FIVE HIGH RIDGE PARK STAMFORD, CT 06905			ONEILL, MICHAEL W	
			ART UNIT	PAPER NUMBER
			3713	

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/818,882

Applicant(s)

REIMER, HARRY A.

Examiner

Michael O'Neill

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 52-66 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 52-66 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

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**DETAILED ACTION**

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 52-61 and 65 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The language of the claims hereinabove raise a question as to whether the claim is directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful and tangible result to form the basis of statutory subject matter under 35 U.S.C. § 101. The claims identified above are not tied to anything. It would be easy to avoid this rejection by positively claim a "display means" and a change display means caused by the process recited. Note that claims 62-64 are tied to a thing, namely a remote player device via a communication network.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 52-66 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are incomplete for omitting essential structural cooperative relationships of elements between the receipt of payment and the remaining elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. Moreover, claim 66 as a further indefinite issue with the phraseology of "the memory storing instructions 'configure to' direct the processor to" because it lacks positively reciting a limitation. This rejection can be avoided by changing the limitation to "the memory storing instructions directing the processor to".

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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Claims 52-56 and 59-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over TetrisAttack in view of Uproar.

The reasoning that TetrisAttack in view of Uproar find the claimed inventions as obvious has been previously stated in the Office action of 04-21-2004 and said reasoning is incorporated herein.

### ***Response to Arguments***

Applicant's arguments filed 4-18-05 have been fully considered but they are not persuasive.

The Examiner respectfully disagrees with the Applicant allegation that TetrisAttack et al. lack in hinting at the combination claimed. The Examiner will provide the analysis below of the Applicant's allegations vis-à-vis the prior art:

(i) prior to receiving a first game move, indicating to the player a first direction in which at least one game icon remaining after the first game move will shift is met with TetrisAttack teaching the well known fact that the game is played by trying to clear blocks before the blocks get to the top of the screen. When blocks are cleared blocks above will fall. This downward movement teaching meets the first direction and it is indicated before a move

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because the player knows that this is what will happen when the player plays the game.

(ii) receiving the first game move from the player, the first game move indicating at least one game icon of the plurality to remove from the game board is met with TetrisAttack teaching the objective of the game is to remove icons, i.e. clearing blocks, from the game board.

(iii) shifting the at least one game icon remaining on the game board in the indicated first direction is met with TetrisAttack teaching when the blocks are cleared any remaining blocks above will fall.

(iv) determine a second direction is met with TetrisAttack teaching as above the blocks will fall. Note the claim does preclude the second direction being a different direction from the first direction

(v) after receiving the first game move and prior to receiving a second game move, indicate the second direction to the player. Again, because the player know which way the blocks will travel either upward, by the computer, or downward, by clearing blocks, the player has an indication of the second direction, i.e. it is not random and pre-stored. Cf. claim 57.

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*Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael O'Neill whose telephone number is 571-272-4442. The examiner can normally be reached on Tuesday through Friday 8:00 am to 6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan M. Thai can

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be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael O'Neill  
Primary Examiner  
Art Unit 3713